

APPEAL NO. 021458  
FILED JULY 15, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 6, 2002. The agreed-upon issue before the hearing officer was:

1. Does the \_\_\_\_\_, compensable injury extend to and include the right shoulder in addition to the left shoulder, cervical spine, and thoracic spine?

The hearing officer determined that the compensable (cervical spine, and thoracic spine and left shoulder) injury did include the right shoulder.

The appellant (self-insured) appeals, urging that the hearing officer erred because she "failed to determine a specific injury sustained by the [respondent] claimant." The claimant responded, urging affirmance.

DECISION

Affirmed.

Fairly clearly, the self-insured has accepted liability for a compensable cervical and thoracic spine and left shoulder injury (see carrier's (self-insured) position in the benefit review conference report, Hearing Officer's Exhibit No. 1 and the self-insured's Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) dated December 2, 1999, as well as the self-insured's argument at the CCH).

The self-insured cites Texas Workers' Compensation Commission Appeal No. 010587, decided April 28, 2001, and Texas Workers' Compensation Commission Appeal No. 990092, decided February 10, 1999, for the proposition that the hearing officer's failure to make specific and necessary findings of fact necessitates a remand. We disagree. In Appeal No. 010587 the hearing officer "created ambiguity and confusion" whether the claimant's injury in that case was a herniated disc or something less and made contradictory findings which required resolution. Appeal No. 990092 involved disability and is not considered controlling in this extent-of-injury case. See Texas Workers' Compensation Commission Appeal No. 021205, decided June 25, 2002.

While it is true that documented complaints of right shoulder pain are not recorded until some months after the date of injury and subsequent diagnoses include possible rotator cuff injury, right shoulder impingement, and/or bursitis, we will not remand the case for the hearing officer to pick on a specific diagnosis. The extent of an injury is a factual determination for the hearing officer to resolve and the hearing officer as the fact finder is the sole judge of the weight and credibility to be given to the

evidence. He determined that the right shoulder was compensably injured, whatever the ultimate diagnosis turns out to be. The self-insured failed to prove why any particular diagnosis would not be part of a compensable injury to the right shoulder. When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such a decision only if it is so contrary to the great weight of the evidence as to be clearly wrong and unjust and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR  
STATE OFFICE OF RISK MANAGEMENT  
300 W. 15TH STREET  
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR  
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For service by mail the address is:

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STATE OFFICE OF RISK MANAGEMENT  
P.O. BOX 13777  
AUSTIN, TEXAS 78711-3777.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Michael B. McShane  
Appeals Judge